

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
AT LAW AND IN ADMIRALTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.

SEVENTEEN MISCELLANEOUS FIREARMS,
and

APPROXIMATELY 5,478 ROUNDS OF
ASSORTED AMMUNITION,

Defendants.

VERIFIED COMPLAINT FOR CIVIL FORFEITURE IN REM

The United States of America, by its attorneys, Matthew D. Krueger, United States Attorney for the Eastern District of Wisconsin, and Scott J. Campbell, Assistant United States Attorney for this district, alleges the following in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure:

Nature of the Action

1. This is a civil action to forfeit properties to the United States of America, under 18 U.S.C. § 924(d), for violations of 18 U.S.C. § 922(g)(3).

The Defendants In Rem

2. The defendant properties comprise seventeen (17) miscellaneous firearms and approximately 5,478 rounds of assorted ammunition. A list of the defendant properties is attached to this complaint as Exhibit A.

3. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) seized the defendant properties on or about March 1, 2019, from Jeremiah Cholip at 4XXX Youngblood Road, Racine, Wisconsin.

4. The defendant properties are presently in the custody of ATF in Milwaukee, Wisconsin.

Jurisdiction and Venue

5. This Court has subject matter jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

6. This Court has *in rem* jurisdiction over the defendant properties under 28 U.S.C. § 1355(b).

7. Venue is proper in this district under 28 U.S.C. § 1355(b)(1) because acts or omissions giving rise to the forfeiture occurred in this district.

Basis for Forfeiture

8. Under 18 U.S.C. § 922(g)(3), it is unlawful for any person who is an unlawful user of, or addicted to, any controlled substance to possess, in or affecting commerce, any firearm or ammunition.

9. The defendant properties are subject to forfeiture to the United States of America under 18 U.S.C. § 924(d) because they were involved in the violation of 18 U.S.C. § 922(g)(3).

Facts

10. Marijuana is a Schedule I controlled substance under 21 U.S.C. § 812.

11. Cocaine is a Schedule II controlled substance under 21 U.S.C. § 812.

Execution of search warrant at Jeremiah Cholip's residence on March 1, 2019

12. On or about March 1, 2019, ATF agents executed a search warrant at the residence of Jeremiah Cholip, 4XXX Youngblood Road, Racine, Wisconsin (the "Cholip residence").

13. Below are some of the items inside the Cholip residence on March 1, 2019:

- A. Approximately 2.6 grams of marijuana inside a plastic container,
- B. Two bowls containing cocaine residue,
- C. One bowl with two metal dishes and a card – all containing cocaine residue,
- D. Three pipes – one containing burnt marijuana and the other two containing black residue,
- E. A digital scale,
- F. A grinder containing marijuana residue,
- G. The defendant seventeen miscellaneous firearms,
- H. The defendant approximately 5,478 rounds of assorted ammunition, and
- I. Various firearm accessories.

March 1, 2019 mirandized recorded statement by Jeremiah Cholip

14. Jeremiah Cholip had arrived at his residence during execution of the search warrant.

15. On March 1, 2019, at approximately 6:00 p.m., two ATF agents conducted a custodial interview of Jeremiah Cholip (the "Interview").

16. The Interview was audio recorded.

17. Before conducting the Interview, an ATF agent read Jeremiah Cholip his Miranda Rights. Mr. Cholip stated that he understood each of his rights and that he was willing to speak with the ATF agents.

18. During the Interview, Jeremiah Cholip (“Cholip”) admitted, among other things, the following:

- A. Cholip is a recreational drug user,
- B. Cholip uses drugs to self-medicate,
- C. Cholip smokes marijuana about three or four times per week,
- D. Cholip has been smoking marijuana for about 20 years,
- E. Cholip uses cocaine about once per week, and
- F. Cholip has been using cocaine for about one year.

19. As a person who is an unlawful user of controlled substances, Jeremiah Cholip is prohibited from possessing firearms, in or affecting commerce, under 18 U.S.C. § 922(g)(3).

20. As a person who is an unlawful user of controlled substances, Jeremiah Cholip is prohibited from possessing ammunition, in or affecting commerce, under 18 U.S.C. § 922(g)(3).

21. Cholip’s possession of the firearms were in, and affected, interstate commerce in that each of the defendant seventeen miscellaneous firearms and defendant approximately 5,478 rounds of assorted ammunition that he possessed on March 1, 2019, was manufactured outside Wisconsin, and therefore was transported in interstate commerce.

22. The defendant seventeen miscellaneous firearms are therefore subject to forfeiture to the United States of America under 18 U.S.C. § 924(d) because they were involved in the violation of 18 U.S.C. § 922(g)(3).

23. The defendant approximately 5,478 rounds of assorted ammunition are therefore subject to forfeiture to the United States of America under 18 U.S.C. § 924(d) because they were involved in the violation of 18 U.S.C. § 922(g)(3).

Administrative Forfeiture Proceedings

24. On or about April 1, 2019, ATF commenced administrative forfeiture proceedings against the defendant properties, seventeen miscellaneous firearms and approximately 5,478 rounds of assorted ammunition.

25. On or about April 29, 2019, Jeremiah Cholip filed a claim and petition for remission to the defendant properties with ATF in the administrative forfeiture proceedings.

Warrant for Arrest In Rem

26. Upon the filing of this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the defendant properties pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

Claims for Relief

27. The plaintiff alleges and incorporates by reference the paragraphs above.

28. By the foregoing and other acts, the defendant seventeen miscellaneous firearms were involved in the violation of 18 U.S.C. § 922(g)(3).

29. The defendant seventeen miscellaneous firearms are therefore subject to forfeiture to the United States of America under 18 U.S.C. § 924(d).

30. By the foregoing and other acts, the defendant approximately 5,478 rounds of assorted ammunition were involved in the violation of 18 U.S.C. § 922(g)(3).

31. The defendant approximately 5,478 rounds of assorted ammunition are therefore subject to forfeiture to the United States of America under 18 U.S.C. § 924(d).

WHEREFORE, the United States of America prays that a warrant of arrest for the defendant properties – seventeen miscellaneous firearms and approximately 5,478 rounds of assorted ammunition – be issued; that due notice be given to all interested parties to appear and show cause why the forfeiture should not be decreed; that judgment declare the defendant

properties to be condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and equitable, together with the costs and disbursements of this action.

Dated at Milwaukee, Wisconsin, this 11th day of July, 2019.

Respectfully submitted,

MATTHEW D. KRUEGER
United States Attorney

By:

s/SCOTT J. CAMPBELL
SCOTT J. CAMPBELL
Assistant United States Attorney
Scott J. Campbell Bar Number: 1017721
Attorney for Plaintiff
Office of the United States Attorney
Eastern District of Wisconsin
517 East Wisconsin Avenue, Room 530
Milwaukee, Wisconsin 53202
Telephone: (414) 297-1700
Fax: (414) 297-1738
E-Mail: scott.campbell@usdoj.gov

Verification

I, Ryan T. Arnold, hereby verify and declare under penalty of perjury that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives in Milwaukee, Wisconsin, that I have read the foregoing Verified Complaint for Civil Forfeiture *in rem* and know the contents thereof, and that the factual matters contained in paragraphs 10 through 23 of the Verified Complaint are true to my own knowledge.

The sources of my knowledge and information are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with others, as a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Date: 7/11/2019

s/RYAN T. ARNOLD

Ryan T. Arnold

Special Agent

Bureau of Alcohol, Tobacco, Firearms, and Explosives

EXHIBIT A

FIREARMS

<u>Description</u>	<u>Serial No.</u>
1. SAVAGE STEVENS 258B Shotgun CAL:20	None
2. ITHACA GUN CO. Rifle Model: 49; CAL: 22	490582658
3. RUGER 77/22 Rifle CAL:22	700-09-894
4. UNIS Pistol CAL:ZZ	69187
5. REMINGTON ARMS COMPANY, INC. 12 Shotgun CAL:12	59562
6. RUGER 77/22 Rifle CAL:22	720-07333
7. WINCHESTER 67 Rifle CAL:22	None
8. WHITWORTH EXPRESS Rifle CAL:458	B279559
9. WINCHESTER 94 Rifle CAL:30-30	1673216
10. SMITH & WESSON M&P 45 Pistol CAL:45	HMT4125
11. Unknown Manufacturer Revolver CAL:ZZ	39865
12. M.A.B. A Pistol CAL:25	106685
13. Unknown Manufacturer Pistol CAL:ZZ	34341
14. GLOCK GMBH 21 Pistol CAL:45	LGK741
15. Unknown Manufacturer Rifle CAL:ZZ	WI00010
16. SAVAGE STEVENS 237A Shotgun CAL:20	None
17. AR-7 INDUSTRIES LLC AR7 EXPLORER Rifle CAL:22	A272990

AMMUNITION

<u>No. of Rounds / Description</u>
18. 33 Rounds / CAL:ZZ
19. 12 Rounds / CAL:ZZ
20. 40 Rounds / CAL:ZZ
21. 13 Rounds / CAL:ZZ
22. 20 Rounds / CAL:ZZ
23. 177 Rounds / CAL:Multi
24. 937 Rounds / CAL:Multi
25. 37 Rounds / CAL:Multi
26. 244 Rounds / CAL:Multi
27. 1,330 Rounds / CAL:Multi
28. 114 Rounds / CAL:Multi
29. 394 Rounds / CAL:Multi
30. 2,100 Rounds / CAL:Multi
31. 10 Rounds / CAL:Multi
32. 15 Rounds / CAL:9
33. 2 Rounds / CAL:45
5,478 Total Rounds

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

Place an "X" in the appropriate box: ☐ Green Bay Division ☒ Milwaukee Division

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Scott J. Campbell, AUSA
US Attorney's Office, #530 Federal Building
517 E. Wisconsin Avenue, Milwaukee, WI 53202 (414-297-1700)

DEFENDANTS

SEVENTEEN MISCELLANEOUS FIREARMS, ET AL.

County of Residence of First Listed Defendant Racine

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW W (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 USC § 924(d)

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

07/11/2019

s/SCOTT J. CAMPBELL

FOR OFFICE USE ONLY

RECEIPT #

Case 2:19-cv-00987-JPS Filed 07/11/19 Page 1 of 1 Document 1-2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
AT LAW AND IN ADMIRALTY

UNITED STATES OF AMERICA,

Plaintiff,

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Case No.

SEVENTEEN MISCELLANEOUS FIREARMS,
and

APPROXIMATELY 5,478 ROUNDS OF
ASSORTED AMMUNITION,

Defendants.

WARRANT FOR ARREST IN REM

To: THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES
Eastern District of Wisconsin

WHEREAS, a Verified Complaint for Civil Forfeiture *in rem* was filed on the 11th day of July, 2019, by the United States Attorney for the Eastern District of Wisconsin, which seeks the forfeiture of the above-named defendant properties under Title 18, United States Code, Section 924(d), and which prays that process issue to enforce the forfeiture and to give notice to all interested parties to appear before the court and show cause why the forfeiture should not be decreed; and due proceedings being had, that the defendant properties be condemned and forfeited to the use of the United States of America.

YOU ARE THEREFORE HEREBY COMMANDED to attach and arrest the defendant properties listed below, which were seized on or about March 1, 2019, from Jeremiah Cholip at 4XXX Youngblood Road, Racine, Wisconsin, and which are presently in the custody of the Bureau of Alcohol, Tobacco, Firearms, and Explosives in Milwaukee, Wisconsin, in the Eastern District of Wisconsin, and to detain the same until further order of this Court.

FIREARMS

<u>Description</u>	<u>Serial No.</u>
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32. 15 Rounds / CAL:9
33. <u>2 Rounds / CAL:45</u>
5,478 Total Rounds

Dated this ____ day of _____, 2019, at Milwaukee, Wisconsin.

STEPHEN C. DRIES
Clerk of Court

By:

Deputy Clerk

Return

This warrant was received and executed with the arrest of the above-named defendants.

Date warrant received: _____

Date warrant executed: _____

Name and title of arresting officer: _____

Signature of arresting officer: _____

Date: _____